

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NO. CR 05-0144 RB

**JERRY TRAXLER, ADAM LADUE,
and DENNIS DENNING,**

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER came before the Court on Defendant Denning's Renewal of Motion to Suppress Evidence, filed on November 7, 2005. Having considered the briefs, evidence, arguments of counsel, and being otherwise fully advised, I find that the renewed motion to suppress should be denied.

I. Background.

On June 21, 2005, after an evidentiary hearing, I issued a Memorandum Opinion and Order denying Denning's motion to suppress. The case was tried before a jury on June 27 and 28, 2005 before the Honorable James O. Browning, United States District Judge. At trial, Denning renewed his motion to suppress and requested that the motion be heard by Judge Browning. At the end of the trial, Judge Browning took the renewed motion under advisement. Subsequently, Denning was instructed to file a written motion. Denning filed the renewed motion and submitted excerpts of the trial transcript. After review of the renewed motion and trial transcript, Judge Browning consulted with me and requested that I rule on the renewed motion.

II. Discussion.

In my Memorandum Opinion and Order of June 21, 2005, I found that the stop was justified at its inception, reasonable in scope, and that there was probable cause for arrest. In the renewed motion, Denning repeats his arguments that the stop and arrest were not justified. Denning states that the trial judge is in a better position to evaluate the testimony of witnesses at trial. However, Denning does not explain how the trial testimony differed from the testimony at the suppression hearing in any material respect. Agent testimony at the suppression hearing was credible and that credibility was not called into doubt by the trial testimony. For the reasons articulated in my Memorandum Opinion and Order of June 21, 2005, I find that the renewed motion should be denied.

WHEREFORE,

IT IS ORDERED that Defendant Denning's Renewal of Motion to Suppress Evidence, filed on November 7, 2005, is denied.



ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE